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1 . WHAT IS THE DIFFERENCE BETWEEN A PATENT, A COPYRIGHT AND A TRADEMARK?

A patent is a legal grant from a government entity that gives the holder the right to exclude others from making, using, selling or importing a specified invention for a limited time period. A copyright grants the right to exclude others from copying, selling, performing, displaying or making other works based on a work of authorship, such as a song, a book, or computer source code. A trademark grants the right to exclusively use a name, design, slogan, or any other symbol used to identify its goods and services to consumers.

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2. WHAT IS THE DIFFERENCE BETWEEN AN INTELLECTUAL PROPERTY ATTORNEY AND A PATENT ATTORNEY?

There are no special licensing requirements for an attorney to deal in trademark, copyright, trade secret, licensing and other intellectual

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property specialties. As such, intellectual property attorneys commonly practice in any one or more of these fields. However, only a patent attorney may file and prosecute patent applications before the U.S. Patent & Trademark Office (USPTO) on behalf of a client. In order to become a patent attorney an attorney must have engineering or "hard science" undergraduate degree and pass a special bar exam given by the USPTO.

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3. WILL YOUR FIRM ALSO ASSIST ME IN INCORPORATING MY BUSINESS?

We limit our practice exclusively to intellectual property. However, we will provide guidance on any non-IP issues that we may identify during the course of our representation to ensure that all of your needs are met.

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4. DOES YOUR FIRM HAVE THE TECHNICAL EXPERTISE NECESSARY TO HANDLE OUR INTELLECTUAL PROPERTY WORK?

All of our attorneys are handpicked for their degrees in engineering, chemistry, biology, physics, metallurgy, ceramics and other technical specialties in addition to their law degrees. Collectively we provide a breadth and depth of experience to serve clients in diverse industries with specialized needs. Our niche experience and broad experience base enables us to provide quick and efficient service without the need for costly time spent getting to know your industry.

Below is a list of the technical degrees held by the Firm's attorneys:

- Aeronautical Engineering
- Automotive Engineering
- Biochemistry
- Biology
- Ceramic Engineering
- Chemical Engineering
- Chemistry
- Civil Engineering
- Computer Science
- Electrical Engineering

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- Mathematics
- Mechanical Engineering
- Metallurgical Engineering
- Organic Chemistry
- Physics

For a more complete list of technical specialties and expertise, please check our [attorney profiles](#).

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5. DOES YOUR FIRM LITIGATE INTELLECTUAL PROPERTY CASES?

Yes. We have an extensive litigation practice in all areas of intellectual property. You can be assured that all of our attorneys handling the litigation will be registered to practice before the U.S. Patent & Trademark Office (USPTO). While many "full service" law firms claim to have intellectual property litigation departments, they are often staffed with general trial attorneys and one or two "consulting" patent attorneys. We offer a full range of litigation services, including representation at administrative proceedings before the USPTO, the International Trade Commission and other governmental agencies, litigation in state and federal trial courts and appellate courts, and the U.S. Supreme Court.

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6. DOES YOUR FIRM ACCEPT INTELLECTUAL PROPERTY CONTINGENCY FEE LITIGATION CASES?

Yes. We have extensive experience in such litigation under a variety of circumstances and fee arrangements. Through the course of these matters and have obtained several multi-million dollar awards and settlements on behalf of our clients.

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1. WHAT IS A PATENT?

A patent is a legal document which contains a set of exclusive rights granted by the government to the patent owner for a fixed period of time. These rights include an exclusive right to manufacture, use, sell or offer for sale the subject matter of the invention as defined in the patent. In exchange, the patent owner provides a full technical description of the invention which enables others of skill in the area of technology to understand and reproduce the invention.

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2. WHAT DOES A PATENT PROTECT?

A utility patent, the most common type, is commonly said to protect the idea behind an invention. More specifically, a utility patent can be used to protect a process, machine, article of manufacture, composition of matter (chemical compound), or any new or useful improvement thereof.

A utility patent cannot protect an abstract idea, natural phenomenon, or mathematical formula. However, a product or process based upon these ideas is patentable. For example, the concept of electricity is not patentable, but a new electric motor could be.

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3. WHAT CAN I DO TO BEST DOCUMENT MY INVENTION PROCESS?

Be sure to maintain a proper invention notebook. For patent protection, keeping records of inventive activity in a notebook serves one main function: to provide evidence that the invention was made before somebody else. Legally, an invention is not complete until the invention is built and proven to be useful or a patent application has been filed completely describing the invention. However, credit will be given for an earlier date of invention when it can be proven.

An invention notebook should be written in a bound lab notebook, with entries dated and witnessed by someone who understands what you are doing and has agreed to keep it confidential. Entries should include drawings, test results, and descriptions of work done along with the requisite technical detail.

The sooner a patent application is filed, the less important that these records are likely to be.

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4. WHO CAN APPLY FOR A PATENT?

Anyone can apply for a patent. However, a patent must be applied for only in the name(s) of the actual inventor(s). The inventor(s) can sell or assign the patent to someone else, such as an individual, a corporation, or a university.

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5. WHEN IS THE RIGHT TIME TO APPLY FOR A PATENT?

It is never too early to consult with a patent attorney. The earliest time for filing a patent application would be just after your conception of the invention. Conversely, there are statutory bars that can prove fatal to patenting an invention if you wait too long. In the United States, there is an absolute bar to filing a patent application more than one year after the invention has been described in a printed publication or sold or used in this country. The situation is even more unforgiving abroad, as a patent application must be filed somewhere before any public disclosure of the invention is made in order to preserve your right to a patent.

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6. WHAT ARE THE REQUIREMENTS FOR OBTAINING A PATENT?

In the United States, in order for it to be patentable, an invention must be novel, non-obvious, and have utility. All of these requirements are considered during an examination conducted by the United States Patent Office (USPTO).

Novelty is a requirement that the invention be new. That is, if the invention has been made before, it cannot be patented. If the invention was described in a printed publication anywhere in the world, or on sale anywhere in the world before you invented it, then the invention is not novel.

In order for an invention to be non-obvious, the invention must be more than a mere trivial extension of what is already known. This requirement seeks to determine the level of technical accomplishment contained in the invention, and ensure that a large enough advance is made to deserve patent protection.

The utility requirement is a very minimal test that will only prevent inventions from being patentable that have no demonstrable uses.

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7. WHAT IS A PROVISIONAL PATENT APPLICATION?

A provisional patent application is a lower-cost way to begin the patenting process. A provisional application must still include a complete description of your invention, but it is not required to include claims. Once a provisional application is filed, you have 12 months in which to file a full utility patent application. By filing a patent application before the end of the 12-month period gives you the original filing date of the provisional application. This one year window does not reduce the term of the patent.

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8. WHAT IS A DESIGN PATENT?

A design patent is a form of patent which covers the decorative/ornamental aspects of a product. The ornamental aspects claimed in a design patent must not be functional, as function is covered only by utility patents. As such, you might obtain a design patent for the ornamental shape of a piano, however if that shape also provides a better sound, then it would be properly protected by a utility patent.

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9. HOW LONG WILL IT TAKE TO OBTAIN A PATENT?

Once a patent application is filed it is processed by the USPTO and waits in line to be examined by a unit specializing in similar technology. Depending upon which art unit is involved, it may take anywhere from six months to two years before an application is first examined. Once examination begins, the patent may be granted right away or, more commonly, a series of negotiations may take place before the patentability of the application is finally decided. Typically, the process takes between one year and three years from filing to issuance of the final patent.

In some special circumstances, you may request that your application be expedited, such as in the case someone is actively infringing your claims. In this case, a higher burden is placed on the applicant, but a patent may be obtained in as little as six months.

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10. HOW LONG DOES A PATENT LAST?

Utility Patents issued after June 7, 1995 expire 20 years from their earliest effective filing date. Typically, a patent application takes 2-3 years from the time it is filed until the Patent is actually issued. Design patents last 14 years from their date of issue. Additionally, maintenance fees must be paid throughout the term of the patent for it to remain in force.

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11. WHAT DOES "PATENT PENDING" MEAN, AND WHEN CAN I USE IT?

The phrase "patent pending" is used in conjunction with a product or service in order to notify the public and any competitors that an application for a patent on that product or service has been filed with the USPTO. The filing of either a provisional or utility application

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entitles one to use "patent pending." The law also provide for fines on anyone who falsely marks a product "patent pending" in order to deceive the public.

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12. SOMEONE ELSE IS MAKING A PRODUCT OR OFFERING A SERVICE THAT INFRINGES MY PATENT, HOW DO I STOP THEM?

If you believe that your patent is being infringed, we recommend that you contact a reputable patent attorney right away. The attorney will compare your patent to the product you allege is infringing to determine if it does in fact infringe. From there, several strategic options exist ranging from sending a cease and desist letter asking the infringer to stop selling the product to filing a lawsuit in Federal District Court. Whatever you do, don't panic, as having someone infringe your patent can be one of the best things that ever happened to you.

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1. WHAT IS A TRADEMARK?

A trademark is any word, name, symbol, device or any combination thereof which is used to identify and distinguish the goods or services of one company from goods or services of another. Some examples of well known trademarks include SONY® in the consumer electronics industry, APPLE® in the computer industry and FORD® in the auto industry.

Under some circumstances, trademark protection can extend beyond words, symbols, and phrases to include other aspects of a product, such as its color, shape, or its packaging. For example, the pink color of fiberglass insulation serves as identifying feature. Such features fall generally under the term "trade dress," and may be protected if consumers associate that feature with a particular manufacturer rather than the product in general. However, such features will not be protected if they provide any sort of functional or competitive advantage. So, for example, a manufacturer cannot use trademark protection to prevent other manufacturers from using a particular unique bottle shape if that shape confers some sort of functional advantage (e.g. is easier to stack or easier to grip).

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2. WHAT IS THE PURPOSE OF A TRADEMARK?

Trademarks make it easier for consumers to quickly identify the source of a given product or service. Trademarks also give manufacturers and service providers an incentive to invest in the quality of their goods. Trademark law furthers these goals by

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regulating the proper use of trademarks and preventing others from free-riding on the good reputation of others.

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3. WHAT ARE THE REQUIREMENTS FOR A TRADEMARK?

In order to serve as a trademark, a mark must be distinctive, and not generic. This requires that a trademark must be capable of identifying the source of a particular good. For example, naming a shoe store "Sally's Shoes" allows a customer to distinguish this store from other competing shoe stores, and thus could qualify for trademark protection. However, naming a shoe store "The Shoe Store" would likely be considered generic, as it is simply too broad. Generic terms are not protected by trademark law because they are simply too useful for identifying a particular product. Giving a single business control over use of the term would provide too great a competitive edge.

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4. HOW DO I ACQUIRE A TRADEMARK?

If a trademark meets the requirements listed about, rights to the trademark can be obtained in two ways:

- (1) by being the first to use the mark in commerce
- (2) by properly registering the mark with the U.S. Patent and Trademark Office.

The use of a mark requires the actual sale of a product to a consumer with the mark attached. Thus, when Henry Ford sold the first Model T with the name "Ford" attached he would have acquired priority to use the mark in connection with automobiles.

The second, and by far more robust, way to acquire priority is to register the mark with the U.S. Patent and Trademark Office. This grants the registrant the right to use the mark nationwide. This right is limited, however, in that if a first person uses a mark in a small geographic area, and a second person subsequently registers the mark, then the second person cannot prevent the first user using the mark.

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5. HOW LONG DOES A TRADEMARK LAST?

Trademark protection can potentially last forever, so long as the trademark holder does not abandon its use and is proactive in preserving the trademark. Along the way, trademarks must be renewed every 10 years by proving that the mark is still in use.

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6. CAN I USE THE ® SYMBOL NEXT TO MY COMPANY OR PRODUCT NAME?

Several symbols are used as notice of trademark rights. Under U.S. trademark law, the circle R (®) may only be used in connection with a federally registered trademark (i.e. registration granted by USPTO). If your mark has not been registered, you may use the TM and SM symbols, which denote that you claim trademark and service mark rights respectively.

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1. WHAT IS A COPYRIGHT?

Copyright protection protects the author of an original work and recognizes the author's exclusive right to reproduce, display, perform, and distribute copies of their work, as well as create derivative works. Copyright law applies to literary, dramatic, musical, artistic, and certain other intellectual works, regardless of where the work is formally published.

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2. WHAT DOES A COPYRIGHT PROTECT?

Copyrights protect the actual expression of an idea, not the underlying idea itself. This is why two separate photographers can hold copyrights on a photograph showing the same building, or two separate singers can hold copyrights on their performance of the same song.

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3. HOW CAN I OBTAIN COPYRIGHT PROTECTION?

It's easy. Copyright protection automatically attaches as soon as your work is fixed in a tangible form. For example, if you sing a new song in the car, no copyright protection exists. But, if you sing the same song and record it onto a tape or write the lyrics down on paper then copyright protection exists automatically.

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4. WHAT IS A REGISTERED COPYRIGHT?

A registered copyright is one that has been approved by the Copyright Office. Registering a copyright isn't mandatory, but it provides many advantages to the copyright holder. First, registration establishes a public record of your copyright and puts everyone on notice of its existence. Second, in order to file suit asserting copyright infringement, you must have a registered copyright. Finally, other advantages such as additional damages and attorney's fees are only available to copyrights registered before the alleged infringing act.

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5. HOW LONG DOES A COPYRIGHT LAST?

The duration of copyright protection depends upon who authors the work. For an individual author, the term of protection is the life of the author plus 70 years. In the case of joint authors, the copyright lasts until 70 years from the death of the last surviving author. For anonymous and pseudonymous works and works made for hire, copyright lasts 95 years from the year of first publication or 120 years from the year of creation, whichever ends first.

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6. CAN I PLACE THE © SYMBOL ON MY WORK?

Yes. Under current law, marking copyrighted work with the appropriate copyright symbol (i.e. ©) is not necessary. However, denoting copyrighted material is strongly advised as it places any potential infringer on notice of your claim to a copyright in the work.

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